Claims 1-20 are pending in the present application. Claims 1, 3, 10-12, 15-17, 19 and 20 are amended. Support for amendments may be found in the specification on page 16 lines 12-18 and page 34 lines 6-8. A concise replacement abstract has been provided. Reconsideration of the claims is respectfully requested.

I.   35 U.S.C. § 101, Claims 1-10

The Examiner has rejected claims 1-10 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. The Examiner states:

> 6.   An example of a method claim that would <u>not</u> qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.
> 7.   Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be performed without the use of a particular apparatus. Thus, claims 1-10 do not positively recite another statutory class to which the method steps are tied. Therefore, the claims are non-statutory. The recitation of a data processing system in the preamble is not a sufficient tie.

Office Action dated October 3, 2008, pages 3-4.

Applicants have provided an amended claim 1 including a feature of generating by the data processing system to identify the statutory class to which the method is tied. Therefore, the claim is in compliance. Claims 2-10 depend from claim 1 thereby inheriting the feature of generating by the data processing system to overcome the Examiner's rejection. Accordingly, claims 1-10 overcome the rejection under 35 U.S.C. § 101.

II.   35 U.S.C. § 112, Second Paragraph, Claims 11-20

The Examiner has rejected claims 11-20 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicants regard as the invention. The Examiner states:

> Claim 11 recites "computer program product **in** a computer readable medium" in which Examiner will herein read as "computer program product embodied on a computer

readable medium" for further consideration of the merits. Proper correction is needed.

Applicants have provided an amended claim 11 including a computer-readable recordable type media having computer-executable instructions stored thereon per the Examiner's suggestion. Amended claim 11 is now in compliance.

Claims 12-19 depending from and inheriting the features of claim 11 therefore also comply. Therefore the rejection of claims 11-20 under 35 U.S.C. § 112, second paragraph has been overcome.

III.   35 U.S.C. § 102, Anticipation, Claims 1-20

The Examiner has rejected claims 1-20 under 35 U.S.C. § 102 as being anticipated by Walker et al., Method and Apparatus for Sale of Airline-Specified Flight Tickets, U.S. Patent No. 5,897,620, (April 27, 1999) (hereinafter "*Walker*"). The Examiner states:

12.   Regarding **Claims 1, 11, and 20:**
Walker discloses a system, a method -- in a data processing system, and computer program product embodied on a computer readable medium for obtaining transportation services for traveling between a point of origin and a destination, comprising:
receiving a request for transportation services from a client device ([Col. 2, lines 44-45], "system and method for receiving a request to purchase a ticket to travel");
receiving, from the client device, an identifier of an acceptable travel window, wherein the travel window identifies a maximum amount of time that a passenger is willing to spend traveling from the point of origin to the destination ([Col. 2, lines 44-47],
"system and method for receiving a request to purchase a ticket to travel from a specified departure location to a specified destination location within a specified time range"); and
providing a guarantee of transportation services from a transportation provider based on the identified acceptable travel window ([Col 2, lines 35-37],
"transmitting a request to purchase a commitment for carriage corresponding to the special fare listing information; receiving a commitment for carriage")
See Also ([Col 5, lines 60-63],
"the unspecified-time ticket represents a commitment for carriage (i.e., an obligation by the airline to provide a seat on a flight) for the requested itinerary")
See Also ([Col. 2, lines 44-47],
"system and method for receiving a request to purchase a ticket to travel from a specified departure location to a specified destination location within a specified time range");
wherein:
providing the guarantee of transportation services does not reserve a seat on any particular vehicle ([Col. 7, lines 5-8],

> "a generic" unspecified-time ticket may also be offered, which, in addition to not it specifying a flight number and flight time, would also not specify an airline.")

See Also ([Abstract],
> "An unspecified-time airline ticket representing a purchased seat on a flight to be selected later, by the airlines, for a traveler-specified itinerary (e.g., NY to LA on March 3rd)").

Office Action dated October 3, 2008, pages 4-6.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). In this case, each and every feature of the presently claimed invention is not identically shown in the cited reference, arranged as they are in the claims.

Claim 1 is as follows:

> A method, in a data processing system, for obtaining transportation services for traveling between a point of origin and a destination, the method comprising:
> receiving a request for transportation services, including a departure date, from a client device to form requested transportation services;
> receiving, from the client device, an identifier of an acceptable travel window, wherein the travel window identifies a maximum amount of time that a passenger is willing to spend traveling from the point of origin to the destination;
> generating, by the data processing system, a guarantee of the requested transportation services and
> providing the guarantee of the requested transportation services from a transportation provider based on the departure date and the identified acceptable travel window, wherein providing the guarantee of the requested transportation services does not reserve a seat on any particular vehicle.

Walker does not anticipate claim 1, because *Walker* fails to teach each and every feature of claim 1 arranged as they are in the claim. In particular, *Walker* fails to teach the feature of "receiving a request for transportation services, including a departure date, from a client device to form requested transportation services", "receiving, from the client device, an identifier of an acceptable travel window, wherein the travel window identifies a maximum amount of time that a passenger is willing to spend traveling from the point of origin to the destination", "generating, by the data processing system, a guarantee of the requested transportation services," and "providing the guarantee of the requested

transportation services from a transportation provider based on the departure date and the identified acceptable travel window, wherein providing the guarantee of the requested transportation services does not reserve a seat on any particular vehicle."

With regard to the features of "receiving a request for transportation services, including a departure date, from a client device to form requested transportation services," the Examiner asserts the following portion of *Walker* in support of the rejection:

> a system and method for receiving a request to purchase a ticket to travel

Walker, col. 2 lines 44-45.

Walker teaches receiving a request to travel. In contrast, the feature specifies a departure date. Therefore, *Walker* does not teach the claimed feature.

With regard to the feature of "receiving, from the client device, an identifier of an acceptable travel window, wherein the travel window identifies a maximum amount of time that a passenger is willing to spend traveling from the point of origin to the destination," *Walker* teaches requesting to travel within a specified time range, as in

> a system and method for receiving a request to purchase a ticket to travel from a specified departure location to a specified destination location within a specified time range

Walker, col. 2 lines 44-47.

Walker teaches travel is to begin within a specified time range. In contrast, the claimed feature specifies an acceptable window that identifies the maximum amount of time that a passenger is willing to spend traveling from the point of origin to the destination. The specified time range of *Walker* is to determine when travel is to begin. *Walker* does not teach the time range is the duration of travel time between a point of origin and a destination. Therefore, *Walker* fails to teach the claimed feature.

With regard to the feature of "generating, by the data processing system, a guarantee of the requested transportation services," *Walker* fails to teach generating a guarantee but does provide a commitment for carriage.

With regard to the feature of "providing the guarantee of the requested transportation services from a transportation provider based on the departure date and the identified acceptable travel window, wherein providing the guarantee of the requested transportation services does not reserve a seat on any

particular vehicle," *Walker* teaches provision of a commitment for carriage while not specifying a flight or airline as at

> transmitting a request to purchase a commitment for carriage corresponding to the special fare listing information; receiving a commitment for carriage, including an obligation by an airline to provide a seat on a flight

Walker, col. 2 lines 35-37.

> In any event, the unspecified-time ticket represents a commitment for carriage (i.e., an obligation by the airline to provide a seat on a flight) for the requested itinerary.

Walker, col. 5 lines 60-63.

> a system and method for receiving a request to purchase a ticket to travel from a specified departure location to a specified destination location within a specified time range

Walker, col. 2 lines 44-47.

> a "generic" unspecified-time ticket may also be offered, which, in addition to not it specifying a flight number and flight time, would also not specify an airline.

Walker, col. 7 lines 5-8.

> An unspecified-time airline ticket representing a purchased seat on a flight to be selected later, by the airlines, for a traveler-specified itinerary (e.g., NY to LA on March 3rd)

Walker, abstract.

In contrast, the claimed feature has an identified acceptable travel window that identifies the maximum amount of time that a passenger is willing to spend traveling from the point of origin to the destination that is not taught by *Walker*. Therefore, *Walker* fails to teach the claimed feature. A window as taught by *Walker* relates to the departure time as:

> the "window of departure" (e.g., 8 AM to 8 PM)

Walker col. 5 line 11.

Therefore *Walker* does not teach the travel window of the claimed feature. *Walker* teaches a focus on the departure date as in:

> traveler-specified itinerary including the origin and destination locations together with the travel dates

Walker col. 4 lines 53-55.

> An itinerary includes the origin and destination locations together with the travel dates.

Walker col. 5 lines 52-54.

Therefore, *Walker* fails to teach the travel window of the claimed feature. Therefore, *Walker* fails to teach the features of claim 1. Independent claims 11 and 20 have similar features as claim 1 and are therefore also distinguished from the teaching of *Walker*. Since claims 2-10, and 12-19 depend from claims 1 and 11 respectively, the same distinctions between *Walker* and the claimed features in claim 1 apply equally well for these claims. Accordingly, under the standard of *In re Bond*, *Walker* fails to anticipate the features claimed. Therefore, the rejection of claims 1-20 under 35 U.S.C. § 102 has been overcome.

IV.   Specification

The Examiner states:

> Applicant is reminded of the proper language and format for an abstract of the disclosure.

> The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

> The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Office Action of October 3, 2008.

Applicants have provided an amended specification including a replacement abstract in accordance with the statute to overcome the Examiner's objection to the specification.

V.   Conclusion

The subject application is patentable over the cited references. Therefore, the subject application should now be in condition for allowance. Applicants invite the Examiner to call the undersigned at the below-listed telephone number if, in the opinion of the Examiner, a telephone conference would expedite or aid the prosecution of this application.

DATE: December 15, 2008

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Respectfully submitted,

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